

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.6285 of 2007

Date: 29.03.2007

Between:

Byndoori Naga Raju.

....Petitioner

And

The Superintendent Engineer, Distribution sub-Division,
A.P.E.P.D.C. Ltd, Visakhapatnam and another.

....Respondents

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.6285 of 2007

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ORDER:

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Petitioner is the Managing Partner of Hotel Karanth's at Visakhapatnam. It was connected with power supply, through Service Connection Nos.19353 and 21953, under Category-II. On the basis of an inspection caused on 20.10.2006, the second respondent issued notices of provisional assessment. The loss of revenue to the Company, in respect of the said two connections, was provisionally assessed at Rs.3,21,167/- and Rs.4,34,477/- respectively. The petitioner was required to submit explanation and was also given an option, to pay half of the said amounts, in case, he wants continued power supply. The petitioner had accordingly paid half of the amounts. The proceedings for passing the order of final assessment are pending. The grievance of the petitioner is that the second respondent is demanding the balance of the amounts covered by the notices of provisional assessment, even while the proceedings for final assessment are pending.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

Basically, the liability of a consumer of electric power, in the context of any acts of pilferage or malpractices being noticed, needs to be determined, in accordance with Section 126 of the Electricity Act, 2003, in an order of final assessment. The amounts indicated in the notices of provisional assessment cannot be treated as final. To ensure continued power supply, the petitioner had already paid half of the amounts indicted in the notices. If the petitioner is required to pay the balance amount, the very proceedings, for passing the order of final assessment, become nugatory.

For the foregoing reasons, the Writ Petition is allowed and the respondents are directed not to insist on payment of balance amounts indicated in the notices of provisional assessment. The actual liability of the petitioner shall depend upon the outcome of the final assessment proceedings. If the petitioner has not submitted his explanation so far, he shall be entitled to file it, within a period of two (2) weeks from today. There shall be no order as to costs.

29.03.2007

Note: Issue operative portion of the order
by wire at party's costs.

(B/o)

JSU